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SIPDIS

STATE FOR AC/CB, NP/CBM, VC/CCB, L/ACV, IO/S
SECDEF FOR OSD/ISP
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (GOLDMAN)
NSC FOR JOECK
WINPAC FOR WALTER

E.O. 12958: N/A
TAGS: PARM PREL CWC
SUBJECT: CHEMICAL WEAPONS CONVENTION (CWC): WEEKLY WRAP-UP FOR DECEMBER 3

This is CWC-145-04.

¶1. (U) The wrap-up includes items from discussions on the margins of the November 24 special Executive Council session and the Nov 29-Dec 2 Conference of States Parties (CSP) which were informally reported back to Washington.

TAIWAN

¶2. (U) The application by the Taiwan Chemical Industry Association for observer status at the CSP was denied, on the recommendation of the conference organizers, on the grounds that Taiwan is not an entity recognized by the UN or the OPCW. For that reason, an association from Taiwan could not be given observer status. The real reason was that the Chinese delegation had made clear in the run-up to the CSP that it objected to the application. Despite the message conveyed by the U.S. and other delegations to working level officials of the Taipei Representative Office in the Netherlands on the importance of Taiwan broaching this subject with the PRC, Taiwan failed to do so, and the rejection of observer status was inevitable.

WASSENAAR ARRANGEMENT APPLICATION

¶3. (U) On Nov. 29, the first day of the CSP, the Asian Group, at the request of Iran and Pakistan, objected to the application of the Wassenaar Arrangement as an international organization, specialized agency or international body approved to attend the CSP, claiming that it was an "exclusionary" body. The U.S. objected to the position taken by the Asian Group. There was no final resolution of this issue as Sergei Zamyatin, the representative of the Wassenaar Arrangement, had to depart The Hague early on Dec. 1.

¶4. (U) Zamyatin informed the Del that the Wassenaar Arrangement had decided a few months ago that it needed to do more outreach. After receipt of the OPCW notice regarding the CSP, the decision was made to seek observer status. The result leaves open the possibility of the Wassenaar Arrangement being granted observer status at the next CSP, and Zamyatin took the point that the prospects of approval would be improved it the group made an earlier application and addressed the objections brought by Iran and Pakistan.

ARTICLE VII

¶5. (U) The U.S. and other delegations were informally notified on the margins of the CSP that the facilitator for Article VII, Mark Matthews (UK), has asked to relinquish this portfolio due to the demands of the upcoming UK Presidency of the EU in the second half of 2005. There is general agreement that Ronald Munch (FRG) will succeed Matthews in handling the Article VII facilitation beginning in January.

IRAQ

¶6. (U) Ahmed N. Jewad, the new Minister at the Iraqi Embassy in The Hague, arrived on December 1 and attended the CSP as an observer. Ambassador Javits and several members of the U.S. delegation met with Jewad to welcome him to his new post.

DROC

¶7. (U) During the CSP, Del reps met with the two observers

from the Democratic Republic of the Congo (DRC) Omari Lea Sisi, Third Vice President of the Defense and Security Commission of the National Assembly (e-mail: olsgudi@yahoo.fr, phone: 002 439 891 1076) and Paul Empole Losoko Efambe (Paul Empole), Director of International Organizations, MFA (e-mail: pelosef@yahoo.fr, phone 243-9841 1394). Sisi, who spoke almost no English, discussed the issues facing the DRC's accession effort, which include contested borders with its neighbors, recent civil wars, and a government composed of four factions. In spite of this, Sisi was hopeful that the DRC would accede in the next several months and informally requested U.S. assistance, promising to follow up with an e-mail. Del reps noted that France and others also are willing to assist, but Sisi emphasized that the DRC wants to work with the U.S. and did not want to ask France or Belgium for assistance.

UNIVERSALITY

¶8. (U) Del reps attended a December 2 lunch hosted by the Technical Secretariat and Tunisia for Points of Contact (POCs). Facilitator Hela Lahmar presented her initiative regarding creation of an internet-based network for POCs to exchange information regularly despite their worldwide locations. A member of the Arab League attended, and made a long statement regarding the Arab States not Party's willingness to accede to the CWC, but that this would not be possible until Israel acceded to the NPT. Del reps noted Washington's willingness to participate in Universality-related activities and yet again asked for the 2005 calendar of Universality-related events.

¶9. (U) Privately, a frustrated Ioan Tudor told del rep that the External Relations Division had developed its calendar of events, but that the International Support Branch (ISP) was dragging its heels and not cooperating, using the just concluded meeting of the National Authorities as its current excuse. Furthermore the DG wanted to issue just one list, so that ERD needed to wait for ISP. Tudor hoped that the calendar would be available in another few weeks.

INDUSTRY ISSUES

¶10. (U) Del met with facilitator (Steve Wade/UK) for 2A/2A* Low Concentrations and the German technical representative (Manfred Ruck/Germany) to evaluate options for bringing this long-standing industry issue to a close. The facilitator continues to prefer a .5% concentration for each of the chemicals and continues to not be receptive to alternative solutions, despite the opposition of major industrial players, including the U.S., Germany, France and Japan, to .5% for all three 2A/2A* chemicals.

¶11. (U) During the meeting, the Del and German rep offered the view that the assumptions underlying why these chemicals appear in the Schedule 2A/2A* special category may be flawed.

¶12. (U) Amiton appears on 2A/2A* because it was assumed at the time of treaty negotiation that it could not be placed in Schedule 1 because of its industrial applications. Del noted this assumption proved false, as no State Party has declared any production, processing, consumption or transfer of Amiton. In addition, Germany offered the view that setting a low concentration for Amiton is an "empty box" because, from a technical view, Amiton is produced at a concentration well above 30% and would, therefore, be captured at the highest default concentration applied by States Parties on a national basis. For these reasons, Del reiterated its offer to the facilitator that Amiton be handled not by setting an extremely low concentration, but by recommending to the EC that Amiton be moved to Schedule 1. The facilitator again indicated that, in his view, recommending a movement of chemical between the schedules is beyond his mandate for 2A/2A* facilitation, but grudgingly noted he would consider such a recommendation for EC report language should he not be able to achieve consensus on a low concentration of .5% for Amiton.

¶13. (U) Regarding perfluoroisobutylene (PFIB), Del and the Germans again informed the facilitator that we do not support a low concentration for PFIB below 30% based upon the lack of evidence that such low concentrations of PFIB present a significant proliferation risk. Again, this may be an instance where assumptions regarding PFIB forced it into a special category within the schedules. Although PFIB has an industrial application as an unwanted by-product of tetrafluoroethylene (TFE) and hexafluoropropylene (HFP) production, the generally understood rationale for placing it on 2A/2A* was due to its potential use as a mask-breaker or as a chemical weapon. It appears from the evidence collected nationally as well as the evidence presented by the facilitator, that neither of these assumptions proved

correct.

¶14. (U) Several delegations, including the Germans, but notably, the Japanese have insisted that PFIB presents much less of a proliferation risk that its toxic kindred of phosgene and hydrogen cyanide, which proliferators can arguable more readily find, acquire, and store. PFIB, on the other hand, is manufactured only in a handful of plants world-wide and is, in all known cases, produced and destroyed by continuous, in-line destruction methods (pyrolysis or methanolysis). Through the discussion, the facilitator maintained that a low concentration is necessary because PFIB is highly toxic and manufacturers could, with a few modifications to the process, produce PFIB in large quantities at high concentration.

¶15. (U) Both the Del and German representative pointed out this was true of nearly every chemical on the schedules and that declarations are based on activity, not capability. Furthermore, since the UK position, which is being pushed by the facilitator, is that a low concentration is desirable so that all PFIB producers are declared, Del and Germany reps offered the view that the facilitator focus on making clear that TFE and HFP producers, which manufacture PFIB as a by-product, are already required to be declared under the "other chemical production facility" (OCPF) category.

¶16. (U) As a solution, Del suggested that we might consider setting a concentration for declaration in a range, from .5%-30% to uphold national legislations already in force and make a concentration applicable to those States Parties who have yet to set a designation. Second, the suggestion is that the facilitator emphasize to SP that PFIB producers are already declarable under the OCPF regime and therefore there is reason to consider whether creating or designating a separate product group code category for fluoropolymer production would be useful for transparency purposes.

¶17. (U) Third, the suggestion is that the facilitator consider suspending discussions until after the next Review Conference to allow for information regarding PFIB's proliferation risk to be compiled and analyzed, since this is the primary reason for concern and what distinguishes this chemical from the rest of the scheduled chemicals. As a tangent discussion spurred on by the mention of moving Amiton to Schedule 1, participants also speculated whether a future move of PFIB from Schedule 2A to Schedule 3 as a toxic chemical might be another solution. In the end, however, the facilitator continues to insist that the appropriate way to handle PFIB is through a low concentration of .5%, and that he intends to continue discussions in the intersessional forum to achieve this low concentration goal.

¶18. (U) Regarding BZ, Germany indicated it is, officially, not flexible and prefers not to adopt a low concentration for BZ. The facilitator indicated his interpretation that .5% is the appropriate low concentration. Del offered that, while we have not settled on an appropriate number for a low concentration, we do understand the argument for a low concentration based on the history of BZ as a weapon, the technical aspects of its manufacture which appear to justify a sub-30% threshold, and that BZ is, with regard to regulatory requirements, different as it is applied as a disparate quantity threshold and is distinguished by an "*" from its other Schedule 2A colleagues.

¶19. (U) Germany informally indicated they might be flexible given these facts, but that .5% continues to be too low. It noted that in an earlier EC decision regarding transfers to non-States Parties, the low concentration agreed to trigger reporting to the OPCW was 1% and setting a low concentration must be reconciled with this decision to avoid confusion to industry. Germany senses that 1% might be a more appropriate low concentration, therefore, to adopt for production declarations. The facilitator, again, insisted that .5% is the appropriate designation for BZ and that he has a near consensus on this figure.

¶20. (U) Del spoke briefly with the Canadian delegation regarding their opposition to a decision on Schedule 1 captive use. Canada has opposed such a decision in the past on the grounds that a Schedule 1 decision would be "regulation for regulation's sake", given that there is no known Schedule 1 production involving captive use situations. The counter-argument, spearheaded by the FRG, but backed by the U.S., Japan, and France, is that a decision is necessary to ensure the definitions in Article II are applied evenly across the schedules and to dispel any notion SPs might have that situations exist where industrial production could occur above concentration and above quantity thresholds that does not require declaration. The backbone of the Canadian argument has been that any decision clarifying such production as declarable would have an adverse effect on future research and development activities because of the one ton cap on Schedule 1 production in any SP.

¶21. (U) During this discussion, the Canadians clarified

their stance and agreed that captive use production should be declared and verified but that such production should not count towards the one ton cap. The Canadian admission that such activities are declarable is a significant deviation from previous statements made during the industry cluster sessions. Del offered sympathy for the Canadian desire not to see medical, pharmaceutical or other legitimate endeavors not hampered by the one ton cap, but offered that the decision to clarify the consistent application of definitions must not be confused with this argument. Instead, Del offered the comment that what may be necessary is to pursue to two-step approach.

¶22. (U) First, all States Parties join in language that reflects a common agreement that the treaty currently unequivocally captures all Article VI Schedule 1 production activities above concentration and quantity thresholds, regardless of Schedule. Second, States Parties should ask the question "is this right?" Since a blanket approach towards every possible scenario is usually never the right answer, SPs may want to evaluate the merits of potentially excluding Schedule 1 captive use production for specific, medical or pharmaceutical purposes from applying towards the one ton cap. Certainly the intent of the treaty is not to derail pursuit of or hamper production of the "silver bullet" for cancer. Del offered what may be needed is further consideration by the Scientific Advisory Board (SAB) or decision language that indicates the need to address such situations on a "case-by-case" basis in lieu of the one ton cap.

¶23. (U) Javits sends.
RUSSEL